

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

JESSE LANE DABBS

v.

v.

RICKY J. BELL, WARDEN

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No. 3:07-0048

Judge Echols

ORDER

For the reasons explained in the Memorandum issued contemporaneously herewith, the Court rules as follows:

(1) The Report and Recommendation of the Magistrate Judge (Docket Entry No. 18) is hereby ACCEPTED;

(2) Petitioner's "Objection to the Magistrate's Report and Recommendation" (Docket Entry No. 22) is hereby OVERRULED;


(3) Respondent's Motion to Dismiss (Docket Entry No. 10) is hereby GRANTED; and

(4) This case is hereby DISMISSED WITH PREJUDICE.

Because Petitioner cannot demonstrate that reasonable jurists would find the Court's assessment of the timeliness of Petitioner's 28 U.S.C. § 2254 Petition debatable or wrong, a Certificate of Appealability will not issue. See Slack v. McDaniel, 529 U.S. 473, 483-84 (2000). Further, while reasonable jurists may debate whether the actual innocence exception applies to claims of non-capital sentencing error, a reasonable jurist would not find it debatable that Petitioner cannot show actual innocence related to the sentence imposed by the state court.

Entry of this Order on the docket shall constitute entry of final Judgment in accordance with Federal Rules of Civil Procedure 58 and 79(a).

IT IS SO ORDERED.

  
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ROBERT L. ECHOLS  
UNITED STATES DISTRICT JUDGE